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UBS Third Party Management Company SA*

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

UBS AG, UBS (LUXEMBOURG) SA, UBS
FUND SERVICES (LUXEMBOURG) SA, UBS
THIRD PARTY MANAGEMENT COMPANY
SA, ACCESS INTERNATIONAL ADVISORS
LLC, ACCESS INTERNATIONAL ADVISORS
LTD., ACCESS MANAGEMENT
LUXEMBOURG SA (f/k/a ACCESS
INTERNATIONAL ADVISORS
(LUXEMBOURG) SA) as represented by its

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

Adv. Pro. No. 10-04285 (SMB)

**UBS APPELLEES' COUNTER-
DESIGNATION OF ADDITIONAL
ITEMS TO BE INCLUDED IN THE
RECORD ON APPEAL**

Liquidator MAÎTRE FERNAND ENTRINGER, ACCESS PARTNERS SA as represented by its Liquidator MAÎTRE FERNAND ENTRINGER, PATRICK LITTAYE, CLAUDINE MAGON DE LA VILLEHUCHET (a/k/a CLAUDINE DE LA VILLEHUCHET) in her capacity as Executrix under the Will of THIERRY MAGON DE LA VILLEHUCHET (a/k/a RENE THIERRY DE LA VILLEHUCHET), CLAUDINE MAGON DE LA VILLEHUCHET (a/k/a CLAUDINE DE LA VILLEHUCHET) individually as the sole beneficiary under the Will of THIERRY MAGON DE LA VILLEHUCHET (a/k/a RENE THIERRY DE LA VILLEHUCHET), PIERRE DELANDMETER, THEODORE DUMBAULD, LUXALPHA SICAV as represented by its Liquidators MAÎTRE ALAIN RUKAVINA and PAUL LAPLUME, MAÎTRE ALAIN RUKAVINA AND PAUL LAPLUME, in their capacities as liquidators and representatives of LUXALPHA SICAV, GROUPEMENT FINANCIER LTD.

Defendants.

Pursuant to Rule 8009 of the Federal Rules of Bankruptcy Procedure and Rule 8009-1 of the Local Rules for the United States Bankruptcy Court for the Southern District of New York, appellees UBS AG, UBS (Luxembourg) S.A., UBS Fund Services (Luxembourg) S.A., and UBS Third Party Management Company S.A. (collectively, the “**UBS Appellees**”) submit this counter-designation of additional items to be included in the record on appeal in response to the Trustee’s Statement of Issues to be Presented and Designation of Items to be Included in the Record on Appeal, dated March 28, 2017 [Dkt. No. 235], submitted by Irving H. Picard (the “**Trustee**”), as trustee of the substantively consolidated estate of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, et seq., and Bernard L. Madoff, individually.

The UBS Appellees counter-designate for inclusion in the record on appeal the items listed below, with the pertinent docket entries filed in the United States District Court for the Southern District of New York, *Picard v. UBS AG*, No. 11-cv-04212 (CM) (such designated items, the “**District Court Designations**”). Copies of the District Court Designations are annexed hereto as Exhibits 1 – 4. For each item designated, the designation includes all document references within the particular document number including, without limitation, all statements, appendices, exhibits, attachments, declarations, and affidavits related thereto. The UBS Appellees reserve their rights to designate additional items for inclusion in the record.

Designation No.	Date	ECF No. (11-cv-04212)	Docket Text
1	7/12/2011	10	ENDORSED LETTER addressed to Judge Colleen McMahon from Marshal R. King dated 7/12/2011 re: Counsel for the UBS Defendants write in response to the 7/11/11 letter to Your Honor from counsel for Plaintiff Irving H. Picard. ENDORSEMENT: I am only interested in dealing with the threshold issue now- SLUSA presumption and standing, I don't want to deal with other issues. (Signed by Judge Colleen McMahon on 7/12/2011) (tro) (Entered: 07/12/2011)
2	7/14/2011	12	Letter addressed to All Counsel in Picard v. UBS AG (11cv4212 and 11cv4213) from Judge Colleen McMahon dated 7/14/2011 re: Motion to Withdraw the Reference in LIF Case. Trustees need to address the issues (listed in this letter) in a letter brief by close of business on Friday.(jar) Modified on 7/14/2011 (jar). (Entered: 07/14/2011)
3	12/7/2011	39	RULE 54(B) CLERK'S JUDGMENT That for the reasons stated in the Court's Order dated December 2, 2011, there is no just reason for delay of entry of a final judgment on the Dismissed Claims, pursuant to Federal Rule of Civil Procedure 54(b), Counts 12 through 28 of the Amended Complaint is dismissed; the Dismissed Claims present legal issues that are independent of the Remaining Claims that have been returned to the Bankruptcy Court for further proceedings. (Signed by Clerk of Court Ruby Krajick on 12/7/11) (Attachments: # 1 notice of

			right to appeal)(ml) (Entered: 12/07/2011)
4	7/11/2013	40	MANDATE of USCA (Certified Copy) as to 37 Notice of Appeal filed by Irving H. Picard USCA Case Number 11-5051. Ordered, Adjudged and Decreed that the judgment of the District Court is AFFIRMED in accordance with the opinion of this court. Catherine O'Hagan Wolfe, Clerk USCA for the Second Circuit. Issued As Mandate: 7/11/2013. (nd) (Entered: 07/11/2013)

Date: New York, New York
April 11, 2017

GIBSON, DUNN & CRUTCHER LLP

By: /s/ Marshall R. King

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